

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PETER T. ELSE,</p> <p>v.</p> <p>Respondent:</p> <p>ARCHULETA COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53859</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 19, 2010, Sondra W. Mercier and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by Todd M. Starr, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**116 Squirrel Drive, Pagosa Springs, Colorado
Archuleta County Schedule No. 569302410008**

The subject property consists of a 1.3 acre vacant land parcel located in the Aspen Springs Subdivision 2. The subject property is somewhat level in terrain. According to Petitioner, there is a shale bed approximately two to two and a half feet below the surface preventing good tree growth; there are only two trees and some scrub brush on the subject property.

Petitioner presented an indicated value of \$16,545.00 for the subject property.

Petitioner presented two comparable sales ranging in sales price from \$14,000.00 to \$18,375.00 and in size from 1.1 acres to 1.3 acres. No adjustments were made to the sales.

Comparable Sale 1 is the Parrish Living Trust property, which was purchased by Petitioner's stepfather on August 6, 2007 for \$14,000.00. Mr. Else considers this property to be a better lot than the subject property due to its loop driveway access, more trees and therefore better privacy, and

better setbacks. It is located on the same road as his property. He wants the same value per acre as what has been assigned by the assessor to this property.

Comparable Sale 2 is located on Raccoon Drive. The assessor disqualified this sale due to it containing undetermined personal property. Petitioner testified that the undetermined personal property was a non-permitted, unlicensed dilapidated and uninhabitable used mobile home. Petitioner considers the mobile home to have no contributory value to the property and believes that it is, in fact, a detriment. The sale price of \$14,135.00 per acre is well below that of the sales used by Respondent's appraiser in Exhibit 1A.

Petitioner testified that there is a junkyard immediately north of and adjacent to his property; none of Respondent's sales have a junkyard nearby. He believes Respondent's adjustments are subjective and should be given no weight. He does not believe Respondent has conducted a quantitative analysis regarding junkyard influence on value. Trees add value to property and there have been no adjustments made to Comparable Sale 2 for its superior tree cover.

The Parrish property has superior tree cover as well. Respondent's Comparable Sale 3 is located 320 feet from the National Forest boundary, and there are no junkyards adjacent to the property. Petitioner believes Comparable Sale 3 is not comparable to the subject property due to its location.

Petitioner is requesting a 2009 actual value of \$16,545.00 or \$12,727.00 per acre for the subject property based on the same per acre assessment value as the Parrish property.

Respondent presented a value of \$25,500.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sale price from \$23,000.00 to \$30,000.00 and in size from 1.0 acre to 1.5 acres. After adjustments were made, the sales ranged from \$25,400.00 to \$26,000.00. Most weight was given to Comparable Sale 1 as it is similar in size, topography, and has highway noise.

Respondent's witness, Robert G. Randolph, a Licensed Appraiser with the Archuleta County Assessor's Office, testified that external obsolescence in the form of highway noise affects the subject property. Mr. Randolph testified that he chose sales that were affected by highway noise, junkyard proximity, and were similar in site size. There are no protective covenants or restrictions in the subject's subdivision. Because the subdivision is unregulated, there are many junkyards present in the subdivision as well as an improvement mix of stick-built houses, manufactured housing, and properties with deferred maintenance.

Regarding the Parrish property, Mr. Randolph testified that the building envelope is compromised by terrain as a substantial portion of the property plunges into a bowl. Although the building envelope is limited, it will allow a smaller typical residence as found in the subdivision. The subject property has a larger building envelope and is not as wooded as the Parrish property. The Parrish property does not suffer from obsolescence. It would require significant adjustments to be used to value the subject property; therefore, it is not comparable. However, if Mr. Randolph

were to use the sale, he would give it a topography adjustment larger than the one he used for Comparable Sale 3.

Respondent's witness, Keren L. Prior, the Archuleta County Assessor, testified that she and her staff conducted a regression study regarding the affect of junkyards, trees, and dirt roads on property values. The study showed no market difference. Regarding the Parrish property, it has a negative adjustment of 44.56% due to extreme terrain.

Respondent assigned an actual value of \$26,000.00 to the subject property for tax year 2009 but is recommending a reduced value of \$25,500.00.

Sufficient probative evidence and testimony was presented to prove that the subject property was incorrectly valued for tax year 2009.

The Board notes that Petitioner's two sales have the second and third lowest unadjusted sale prices of the 26 total sales that occurred in the subdivision during the study period as listed on Page 10 of Respondent's Exhibit 1E. The Board is convinced that these two sales are not representative of the subject property's value. Petitioner's Comparable Sale 1 is not sufficiently comparable to the subject property in physical characteristics. Regarding Petitioner's Comparable Sale 2, there is insufficient evidence to determine how much of the sale price should be apportioned to personal property, and Petitioner pointed out that the mobile home on the property may even be a detriment to value. The Board does not consider this sale to be a qualified sale.

Regarding Respondent's sales, proximity to junkyards generally is a factor affecting value. However, both parties indicated that junkyards are common throughout the subject subdivision and there was no definitive evidence presented to show what if any affect the adjacent junkyard has on the subject property's value.

The Board gives most weight to Respondent's Comparable Sale 1 as it is most similar to the subject property in terrain, tree cover, and location to Highway 160. The Board is not convinced that enough adjustment has been give to the sale for proximity to the highway and the resulting traffic noise. Mr. Randolph admitted that his adjustments were subjective and both of Respondent's witnesses testified that there was no value influence for tree cover or junkyard proximity. Therefore, the remaining sale price difference between Sales 1 and 2 should be attributable to location. The Board determines that a negative adjustment of \$4,000.00 would be more appropriately applied to Comparable Sale 1 for location, resulting in an indicated value of \$22,400.00.

The Board concludes that the 2009 actual value of the subject property should be reduced to \$22,400.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$22,400.00

The Archuleta County Assessor is directed to change her records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 15 day of October 2010.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier

Sondra W. Mercier

Karen E. Hart

Karen E. Hart

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.

Amy Bruins

Amy Bruins

